

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0488P

**Individual Income Tax
Calendar Year 1996**

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ISSUE(S)

I. Tax Administration—Penalty, interest, collection costs

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2; IC 6-8.1-10-1; IC 6-8.1-8-3

Taxpayer protests the penalty, interest and collection costs.

STATEMENT OF FACTS

Taxpayer, in a letter dated August 11, 1998 protested the Sheriff's Warrant dated July 29 1998. In a prior letter dated October 23, 1997 taxpayer requested a waiver of penalty on its 1996 IT-40 for late payment due to the failure of their CPA to make any attempt to estimate the amount of liability due on April 15, 1997. Taxpayer states that due to the complicated nature of the taxpayer transactions, they were unable to estimate the tax themselves and an extension was filed and signed by the CPA with no balance due. Taxpayer states they made efforts to receive a completed tax return from the CPA but were met with resistance until they finally presented it to new CPA's who filed the return immediately with a check. Taxpayers state they would have readily paid the tax on April 15, 1997 if the amount of the liability had been provided by the CPA. On November 7, 1997 the department advised that reasonable cause had not been determined in the case and the request for penalty abatement was denied. The department enclosed a self-addressed envelope for the remittance and asked that the taxpayer contact the department using the taxpayer services address or the listed telephone number if there were questions. Taxpayers state they sent a letter dated November 17, 1997 addressed to the Protest Review Board and did not notify the Taxpayer Services Division. The department has no record of receiving the November 17, 1997 letter. On August 11, 1998 the taxpayer submitted another protest letter after it received a sheriff's warrant and asked that the department reconsider the penalty waiver. The taxpayer states in its copy of a letter dated November 17, 1997 the Internal Revenue

Service waived the penalty due to reasonable cause and asked the department to consider this case a reasonable cause because the Internal Revenue Service is stringent regarding abatement of penalties.

I. **Tax Administration**— Penalty, interest, collection costs

DISCUSSION

Taxpayer requests the department waive the penalty assessed due to the late payment of the tax due to events beyond their control. Taxpayers state they would have readily paid the tax on April 15, 1997 if their CPA had provided the amount of the liability.

The department denied the taxpayer's request in a letter dated November 7, 1997. On November 17, 1997 the taxpayer mailed another protest letter to the Protest Review Board, which it did not receive. On August 14, 1998, the department received another protest because the taxpayers received a summons from the Sheriff's Department. Taxpayer did not respond to the Clerk's Warrant issued on July 9, 1998. On July 20, 1998, the liability reached the Sheriff's Warrant and on August 11, 1998 the taxpayers requested that they be refunded the penalty and collection costs.

A review of the taxpayers' IT-40 indicates that less than fifty percent (50%) of the tax due was paid by the due date. Estimated payments to cover the tax liability should have been made by the taxpayers or their representative in order to avoid penalties.

FINDING

Taxpayer's protest is denied.